

DEPARTMENT 82 HON. LUIS A. LAVIN, JUDGE
SANTA PAULA ANIMAL RESCUE CENTER,)
PETITIONER,)
vs.) NO. BS144497
COUNTY OF LOS ANGELES DEPARTMENT)
OF ANIMAL CARE AND CONTROL,)
RESPONDENT.)

THURSDAY, SEPTEMBER 5, 2013

BUFORD J. JAMES
OFFICIAL REPORTER 9296
111 NORTH HILL STREET
LOS ANGELES, CALIFORNIA 90012

1 THURSDAY, SEPTEMBER 5, 2013; LOS ANGELES, CALIFORNIA
2 1:30 P.M.

3
4 THE COURT: Good afternoon.

5 MR. SHARER: Good afternoon, your Honor.

6 MS. WEGNER: Good afternoon, your Honor.

7 THE COURT: The Santa Paula Animal Rescue Center
8 matter. Would you make your appearance, please.

9 MR. SHARER: Your Honor, I'm John Sharer of
10 Gibson Dunn on behalf of the petitioners.

11 MS. WEGNER: And I'm Talitha Wegner on behalf of
12 petitioners, your Honor.

13 DIANE REAGAN: Diane Reagan, deputy county
14 counsel for the County of Los Angeles.

15 THE COURT: I do want to state on the record that
16 I did receive a media request which I have granted so I
17 just wanted to make you aware of that. You are welcome to
18 have a seat if you would like.

19 DIANE REAGAN: Thank you, your Honor.

20 THE COURT: As you know, I previously granted a
21 temporary restraining order, and this is the date of the
22 hearing on the order to show cause. And under the terms of
23 the temporary restraining order, the County's animal
24 control department was enjoined from euthanizing the animal
25 at issue in this case JoJo, and this is the date of the
26 hearing.

27 I've read all of your requests in terms of
28 evidentiary objections, I've reviewed the declarations, and

1 I certainly at the conclusion of this hearing will make a
2 formal record as it relates to the evidentiary objections
3 that have been lodged with the court.

4 One of the issues that I have, and this is
5 where I am lacking some clarity from the petitioner. I'm
6 still not clear as to who all the petitioners are, who all
7 the parties are. We certainly started off with the Santa
8 Paula Animal Rescue Center, then there was an amended
9 pleading that was recently filed that includes some
10 individuals; although, it's not clear from the body of the
11 petition whether they are actual petitioners.

12 But apart from those issues, there is a real
13 issue here or there is a legal issue concerning what you're
14 requesting. Essentially, you are asking me to stay an
15 administrative decision, as I understand it. And one of
16 the issues that I have, and maybe you can address this, I'm
17 not sure if your request is under 1094.5, subsection (g) or
18 subsection (h), which explains when it's appropriate for
19 the Court to grant a stay.

20 If it's under Subsection (h), I have to make
21 a finding. I have to make two findings. One, that the
22 public interest will not suffer if the stay is issued and
23 that the agency, in this case, the county animal control
24 department, is unlikely to prevail on the merits.

25 Under 1094.5, subsection (g), again, I'm not
26 sure which provision is appropriate, I think the only
27 finding that I have to make is that the public will not be
28 harmed if the stay is granted. So I do have a question as

1 to which subsection is applicable here, but even if -- and
2 I can give you some general thoughts.

3 I don't think you have established that the
4 County is unlikely to prevail on the merits. To the extent
5 this is an administrative mandamus proceeding, I've
6 reviewed the transcript and the record, and I think there
7 is substantial evidence in the record to support the
8 finding.

9 As it relates to the public interest, will
10 the public interest be harmed unless I issue the stay,
11 there is evidence that has been advanced also by the
12 County. In addition, evidence has been advanced by the
13 County since the dog has been under their supervision,
14 which indicates that this is not a nice dog, that this is a
15 vicious dog, including people who are treating the dog and
16 are responsible for its treatment.

17 So I do have some concerns, even if that is
18 the only finding that I'm supposed to make. But I think,
19 again -- and I have reviewed your papers, your extensive
20 evidence. I certainly take your request very seriously.
21 That's why I issued a temporary restraining order in the
22 first place, notwithstanding the real concerns that I had
23 about your papers, issues of standing, et cetera, because
24 we're talking about an animal that could have been
25 euthanized two weeks ago. And I understood that was a
26 serious penalty unless we had the opportunity to see the
27 record.

28 But now that I have seen the record, I have

1 the administrative transcript in this case, there are two
2 issues that really stand out here. And those are I think
3 it's undisputed that this animal attacked two children,
4 undisputed. There is one, a Cole Durment and then after
5 that in May -- the first attack, I believe, was in March of
6 this year. The second attack was in May of 2013, involving
7 Christian Gonzalez.

8 That last attack was particularly vicious.
9 And I think at least my review of the record, including the
10 fact the child was in the hospital for days, the injuries
11 to the child's hand, would indicate that this was a
12 particularly vicious attack.

13 As it relates to your view that, somehow,
14 the dog was taunted or attacked in some way or the
15 inference the dog was attacked by the children, there is no
16 evidence in the administrative record, there is no evidence
17 in any declaration that anyone actually saw these children
18 attack the dog on that particular day.

19 There is evidence, certainly, that you have
20 advanced that there was teasing and that there were, in
21 fact, the dog might have been taunted on other occasions,
22 but on the day at issue, I didn't see any evidence that
23 would indicate that either of these two children taunted
24 the dog on the day that they were attacked.

25 And the second -- I think you would agree
26 with me that the second attack by JoJo on the child in May
27 of this year was particularly, in my view, very vicious and
28 very serious. In fact, it looks like the child's finger

1 could have been severed.

2 So I guess my tentative thoughts are that I
3 don't think you are likely to prevail, and I'm not sure the
4 public interest would support granting your request, but
5 I'm happy to hear you.

6 MR. SHARER: Well, your Honor, what is
7 uncontested, rather than what you have referred to, is the
8 fact that this dog had been continually and cruelly
9 provoked for every single day that these people were living
10 next door to them, on and on and on, despite repeated
11 efforts, repeated requests by the owners for them to stop.

12 And the taunting was not just verbal. It
13 was physical. These children threw pieces of concrete at
14 the dog. These children lured the dog with the electronic
15 collar so that it would be electrically shocked over and
16 over again. These people put that electrical apparatus in
17 because the neighbors whose kids were taunting the dog
18 complained that the dog was running up causing dust to go
19 on their barbecue or something. And they put in there, and
20 then the kids used that as a reason for provoking the dog
21 to get taunted and then laughing at him and shouting at
22 him.

23 And this dog has been in this family for a
24 couple of years, never has bitten anybody else, never has
25 bitten anybody before, never has bitten anybody afterwards,
26 and never bit anybody in the shelter.

27 Now, these County people can claim that the
28 dog showed aggression, but at no time did the dog bite

1 anybody there.

2 THE COURT: Well, I hardly think that we have to
3 wait for a third attack. I really don't think that's a
4 very compelling argument.

5 MR. SHARER: But there isn't going to be a third
6 attack, your Honor. Because these people have now moved
7 away, the source of the taunting is gone. And experts
8 engaged by the petitioners have tested the dog in minute
9 detail, initially at the house where the dog went through
10 19 different tests, and --

11 THE COURT: Can I take you back for one second.
12 I started off the hearing asking you that I was unclear as
13 to which legal subsection is applicable, and there are
14 different standards for each one. In the first one that I
15 mentioned, there are two requirements that I would have to
16 make to grant your request, and that would include a
17 finding by the Court that the County is unlikely to prevail
18 on the merits.

19 If that's the standard, and I am reviewing
20 the administrative record in this case and the finding that
21 I have to make is is there substantial evidence in the
22 record to support the finding that the County determined
23 that the dog was a vicious dog, there is substantial
24 evidence in the record to support that. So that's the
25 first -- that's the first issue you should address.

26 But before we get to that -- and I will
27 point to sections in the administrative record. The
28 administrative record that was lodged with the Court

1 involved the administrative hearing that was conducted on
2 July 29th, 2013. Although at the time it appeared that
3 there were two owners of the dog, a Travis Bosquez and a
4 Rebecca Merrill, Mr. Bosquez was not at the administrative
5 hearing. Ms. Merrill, apparently, was present, as was
6 another individual by the name of Denise Wheeler that,
7 apparently, now has indicated she has standing on behalf of
8 this particular dog to raise the issues.

9 But I do want to point to a couple of things
10 in the administrative record that really stand out. I
11 think, first of all, the mother of -- I believe it's
12 Miss Christian Gonzalez; although if I get her name wrong,
13 I'm really sorry. This is Connie Frederick -- testified
14 that the child was in the hospital for six days as a result
15 of this attack.

16 This is not a dog just nipping at somebody's
17 heel. For somebody to be in the hospital for six days,
18 that's a pretty serious injury. I think the photographs
19 and the stitches that were involved, the skin grafting,
20 would indicate this is a particularly vicious attack.

21 MR. SHARER: Your Honor, if I may --

22 THE COURT: Let me finish, please, and I will be
23 happy to hear you.

24 There is no evidence in the administrative
25 record, you have presented no declaration of anybody who
26 actually saw the attacks on either March 2013, or May 2013.
27 So what we're left with is a statement by the mother of
28 Christian Gonzalez as to what the child told her, and that

1 statement is admissible as a statement by somebody who
2 basically just went through a trauma and is relaying the
3 information.

4 So the evidence that we have here is
5 uncontested, at least in terms of admissible evidence
6 before the administrative hearing officer that the dog
7 actually attacked the child. But even if the child was
8 egging the dog over to the electric fence, there is no
9 reason why an animal, unless they are a vicious animal,
10 would actually either jump through the fence or go through
11 the fence, notwithstanding the electrical charge, and
12 engage in the kind of attack that occurred here.

13 There is also no evidence that the dog was
14 harmed in any way. So if I missed something, please let me
15 know. I don't have any evidence that would show that the
16 dog had broken bones or a bruise or some sort of abrasion
17 that would indicate or suggest that the child, Christian
18 Gonzalez, had been taunting, tormenting, or attacking the
19 dog.

20 So that is part of the problem that you
21 have. I just don't think you're likely to succeed on the
22 merits. There is substantial evidence in the record before
23 the County this was a vicious dog. Sometimes vicious
24 animals could be very nicely behaved with their owners or
25 with people that they like, but, for whatever reason, that
26 was a particularly vicious attack.

27 MR. SHARER: But you are assuming, your Honor.
28 And you are -- I'm sure you recognize that I mean no

1 disrespect -- that the experts, or those that gave
2 declarations, that the expert, Dr. Polsky, one of the
3 finest experts there is, has said, contrary to what your
4 Honor just said, that shocking this dog with electric
5 current is probably what turned the dog on and almost
6 certainly did it.

7 Now, what the Court is saying is I have to
8 show that the dog's bones were broken or something.

9 THE COURT: You are misinterpreting what I am
10 saying, counsel. I appreciate you are entitled to vigorous
11 advocacy. You are misinterpreting what I am saying.

12 What I am saying is there is no evidence
13 whatsoever from the administrative hearing that would show
14 that on the days of these two separate attacks on two
15 children, the second of which was particularly vicious,
16 vicious enough that a child was in the hospital for six
17 days, there is no evidence to indicate, to support the view
18 that on these particular dates the dog was harmed or
19 taunted in such away that it was hurt.

20 MR. SHARER: That's not true, your Honor.

21 THE COURT: That's all I'm saying. If you want
22 to point me to something in the record, I'm happy to look
23 at it.

24 MR. SHARER: I point you to the declaration --

25 THE COURT: Right now I'm talking the
26 administrative record. Is there anything in the
27 administrate proceeding?

28 MR. SHARER: Let me address the administrative

1 proceeding.

2 THE COURT: Let me just stop you for one second.
3 To the extent your petition is a petition for
4 administrative review, normally the Court is limited to the
5 administrative record. You can file a motion to augment
6 the record, but, right now, the evidence before me is that
7 the owners of the animal had notice of the administrative
8 hearing.

9 To the extent you now are bringing in
10 experts, there is no expert testimony that was presented at
11 the administrative hearing. There was no evidence
12 presented at the administrative hearing to indicate that
13 either of these children actually taunted the dog on the
14 day of the attack.

15 MR. SHARER: Your Honor, if I may.

16 THE COURT: Sure.

17 MR. SHARER: These owners, I'm sure they will
18 forgive me for saying this, have limited education. They
19 attended this hearing, and Mr. Bosquez couldn't because he
20 had another court appointment on some other matter. These
21 people are not legally trained. They were not represented
22 by counsel. They were not told that they were entitled to
23 legal counsel. They were not told that they could get
24 counsel, could get an adjournment. They were not even told
25 they could appeal. They were not told anything.

26 And, as we pointed out -- and we weren't
27 present because we knew nothing about this case -- the
28 administrative hearing was really a farce. They didn't get

1 a chance to put anything in. They wanted to show the
2 administrator an 11-page investigative report, and they
3 were told it was too long. The dog's life's at stake, and
4 it's too long for the administrative judge to read it. And
5 then he was directed to page 7 of it, and he didn't want to
6 read that either.

7 I think, your Honor, in all candor, it's
8 unfair to saddle these people with that administrative
9 hearing the way it was conducted and the way they had no
10 legal representation, whereas their opponents were well
11 legally represented. And the judge himself was part of the
12 organization that was trying to kill the dog anyway.

13 So I think -- the Court keeps referring to
14 the administrative hearing. And I think, in fact, that,
15 for the first time with the presence of counsel, they have
16 been able to show what actually happened.

17 THE COURT: Well, let me just quote you one
18 portion of the administrative record, which is really, in
19 my view, is a very crucial component to administrative
20 mandamus. In fact, usually it's the entire record, but I
21 understand we're here, and we have declarations because of
22 the issue that there is a temporary restraining order and a
23 request for preliminary injunction.

24 This is what Denise Wheeler said. And
25 Denise Wheeler, apparently, according to the hearing, I
26 think indicated she had some ownership or interest in the
27 dog on behalf of the owners of the animal, Ms. Merrill and
28 Mr. Bosquez.

1 On page 36 of the administrative record,
2 starting on line 7. This is what Denise Wheeler said:

3 "Because I think what had happened is when
4 they are playing in the backward, I think that he was on
5 the ledge of the landing up until the boy came to the
6 fence. I think that when the boy came to the fence, JoJo
7 had run up, bit him, and then ran back because it shocked
8 him so bad, and he came up to my -- and then he came up to
9 the door and was sitting there shaking."

10 Okay. In my view, to the extent, again,
11 these are people who -- no one actually witnessed the
12 actual attack on these days. The concession here by
13 Ms. Wheeler is that, for whatever reasons, the animal,
14 notwithstanding being shocked, went through the electrical
15 current and attacked the child viciously. I think that's
16 fatal. That's a fatal admission on behalf of dog's --

17 MR. SHARER: I think it is not, your Honor.

18 THE COURT: Okay.

19 MR. SHARER: It is not because we have expert
20 opinion here that going through and being lured and
21 cajoled, if you will, to go through that electric fence is,
22 in fact, the cause of what is happening. And these
23 children knew that by luring this dog into the electric
24 fence, the dog would get badly shocked and would get wild
25 as a result of that.

26 And we have expert opinion that if you take
27 that electric shock away, take that fence away, the dog
28 would not react that way. Now --

1 THE COURT: The fence that the owners of the dog
2 or the caretakers of the dog actually specifically set up;
3 right? I mean, that's -- I'm not certainly -- the dog --
4 whether the dog lives or dies, certainly the owners of the
5 dog, in my view, didn't show very good judgment that after
6 one attack on a child, this is the system that they decided
7 to impose, which was an electric current system.

8 But be that as it may, I don't think you can
9 have it both ways and say but we have this system; oh, and
10 then somebody kind of egged the dog on, knowing that
11 somehow that the shock would be so severe the dog would
12 essentially then attack the child. That doesn't really
13 make a lot of sense.

14 MR. SHARER: It does, your Honor, because the
15 issue really isn't whether with the owners did anything
16 wrong. It's a question of whether the dog did something
17 wrong.

18 THE COURT: In your view, the dog did nothing
19 wrong?

20 MR. SHARER: If you look at the dog, the dog
21 didn't decide to have an electric collar. The dog didn't
22 decide that there should be electrical fence there. They
23 did. If they did wrong, then they did wrong. But the fact
24 is they didn't because the electric fence was put in there
25 at the request of the people who were tormenting the dog to
26 prevent the dog running up and down and creating clouds of
27 dirt.

28 THE COURT: I'm sorry to have taken you on a

1 tangent, but getting back to the initial legal question,
2 which standard is applicable here?

3 MR. SHARER: We think (g), your Honor.

4 THE COURT: And why is that?

5 MR. SHARER: While she's looking for that, your
6 Honor, might I say --

7 THE COURT: Is this an agency that does not
8 adhere to the Administrative Procedures Act, is that why
9 you are saying that or that is not bound by the
10 Administrative Procedures Act?

11 Again, I don't want to be technical, but
12 there are -- there's an additional finding that I have to
13 make depending on what decision I make. But I will
14 certainly let counsel look for that citation if you want me
15 to look at it, but I appreciate your position, but, again,
16 we're left with a decision by the County that, under the
17 definition of the County ordinance this is a vicious dog
18 and you are left with evidence of two attacks on two
19 children. The second one is, in my view, particularly
20 serious and severe, so much so that it resulted in a child
21 being in the hospital for six days.

22 MR. SHARER: I should --

23 THE COURT: I'm happy to hear from you.

24 MR. SHARER: I should bring to your attention the
25 declaration of Kimberly Kaufman who is not an owner who had
26 seen the kids teasing and taunting the dog on multiple
27 occasions. On the day one of the kids was bitten, she was
28 walking by the Bosquez house and heard the boy teasing the

1 dog. Five minutes later she was told that JoJo had bitten
2 that kid.

3 If you want evidence that it happened
4 shortly after the or at the time of, there is that. It's a
5 question of, of course, that, in most instances, other than
6 the children themselves who were bitten, nobody would
7 actually see it. You have to go, it seems to me, by
8 circumstantial evidence.

9 And I think another thing, if the Court is
10 focusing so heavily on the administrative hearing, which,
11 quite candidly, I don't think the Court should, but getting
12 away from that for a moment, the kids submitted
13 declarations that they were bitten. Significantly, at no
14 time did they contend that they weren't provoking the dog.

15 Now, the fact is that we deal so frequently
16 with circumstantial evidence, which is not infrequently
17 more persuasive than direct evidence. And we have in this
18 situation the fact that the dog had never done anything of
19 the sort, absent severe provocation; that when the dog was
20 tested by qualified experts and put through, on one
21 occasion, 22 different tests and, on another, 19 different
22 tests, the dog reacted normally and naturally. That,
23 again, goes to circumstantial evidence.

24 And what Kimberly Kaufman said that she saw
25 or heard the dog being taunted very shortly before, the
26 circumstantial evidence is that anybody could draw a
27 reasonable inference that the reason the dog committed
28 these two acts was because it was being taunted, teased,

1 and abused cruelly shortly before the biting.

2 THE COURT: Sorry, which declaration were you
3 referring me to?

4 MR. SHARER: It's the declaration of Kimberly
5 Kaufman which is contained in our original papers.

6 MS. WEGNER: It was in the administrative.

7 THE COURT: Now, let me -- again, to the extent
8 we're dealing with specific evidence, this is what Kimberly
9 Kaufman says in the declaration that was submitted on
10 August 15th. Is that what you are referring to?

11 MR. SHARER: Yeah, I think so.

12 THE COURT: In paragraph 5 Ms. Kaufman says, "I
13 have seen the kids next door teasing and taunting JoJo
14 multiple times." And then she says in the following
15 paragraph that on the day in question she saw a little boy
16 calling JoJo and teasing him.

17 So what does that mean? What does -- that,
18 to me, is just a conclusionary statement. Does that mean
19 that calling for the dog would justify the dog going
20 through an electric fence and biting a child, I don't think
21 so. So even if by teasing -- I don't know what you mean by
22 "teasing." It's certainly --

23 MR. SHARER: Your Honor, you haven't read the
24 entire thing.

25 THE COURT: Excuse me, counsel. I'm looking at
26 the declaration.

27 MR. SHARER: I am too. And there is a paragraph
28 that you haven't referred to. And that is that she says,

1 "On the day that the little boy was bitten, I was walking
2 by Travis Bosquez' house and heard a little boy calling
3 JoJo and teasing him."

4 THE COURT: I just stated that, counsel.

5 MR. SHARER: I know. That's not the paragraph --
6 that's not the paragraph I am referring to. She said, "I
7 was not able to see the child or JoJo. Five minutes after
8 passing by Travis Bosquez' house and going inside there was
9 a knock on the door and someone told us that JoJo had
10 bitten the little boy."

11 So, in other words, that is a bang-bang
12 situation.

13 THE COURT: What I'm saying to you is there is
14 absolutely no elaboration or explanation of what she means
15 by "teasing." And what I stated is, even if the child had
16 been calling the dog names -- I don't know if we're talking
17 about calling the dog names, throwing rocks at the dog,
18 there is simply no explanation whatsoever as to what
19 teasing they are referring to.

20 But even if -- for example, if a child had
21 been calling the dog, yelling at the dog, in my view, that
22 does not justify a dog going through an electric fence and
23 almost severing a child's finger. I really don't.

24 MR. SHARER: Well, your Honor, I believe we're
25 entitled to a de novo presentation in this court pursuant
26 to the Don Allen versus City of Novato case, which is at 86
27 Cal.App.4th 1097, which we have cited it. And I think that
28 we are entitled to a trial to demonstrate to the Court

1 through the presentation of evidence and cross-examination.

2 See, what we're saddled with is some
3 conclusionary statements that were not subject to
4 cross-examination, where the owners of the dog were not
5 represented, that they are really unsophisticated people.
6 And we ought to be entitled, in order to save this dog's
7 life, to be able to put those people on the stand and
8 cross-examine them as to what had happened, and we're
9 entitled to a de novo proceeding.

10 THE COURT: Not in this proceeding, not in the
11 proceeding before you today. Before me today, you are
12 entitled to oral argument. I think I'm really giving you
13 every opportunity for oral argument. You are not entitled
14 to an evidentiary hearing.

15 MR. SHARER: I didn't say I was. I was talking
16 about a full scale trial on the merits.

17 THE COURT: But what is before me today is your
18 request, you are the moving party, as to why I should grant
19 a stay or -- and or a preliminary injunction. That is the
20 proceeding before me today. So you have to get beyond that
21 hurdle today.

22 MR. SHARER: I understand that.

23 THE COURT: Which means you have to point me to
24 competent, admissible evidence in your declarations, in the
25 administrative record, in some document that's before the
26 Court today to support your view that, one, if it's
27 applicable, that the County is unlikely to succeed on the
28 merits based on the administrative record and or that the

1 public interest will not suffer.

2 So right now I think we're really focusing
3 on whether or not the public interest -- the public will
4 not suffer if you -- unless I grant the relief that is
5 requested.

6 MR. SHARER: Well, the public interest will not
7 suffer because, pending a trial, a full scale trial with
8 the protections of cross-examination, et cetera, the dog
9 will remain where the dog is at the moment and will not
10 be -- even if it was a vicious dog, and we maintain it
11 isn't, it will not be in a position to harm anybody. It's
12 been there for six weeks so far.

13 MS. WEGNER: More than two months.

14 MR. SHARER: More than six weeks, and it hasn't
15 harmed anybody so far. As a matter of fact, one of the
16 County's doctors of veterinary medicine -- if you will give
17 me a moment, your Honor, I'll find that. Her name is --
18 I'm sure I'm murdering her name here -- Mitzi Fishbein
19 (phonetic).

20 She has a declaration in there for the
21 respondent, that in her declaration at page 2, paragraph
22 12, she in the shelter was able to give food directly from
23 her hand; that JoJo took the food gently and did not bite
24 her fingers, although he remained tense and did not relax.

25 And, as our experts have said, when you take
26 the dog from the familiar surroundings of its family, its
27 loving family, and you stick them in a cage with people it
28 doesn't know and with noise and barking all around, the dog

1 is likely to be tense and nervous. And when our people
2 took the dog out at the shelter and put it through these 19
3 tests to see if it was a vicious dog, it passed every one
4 of those tests.

5 Now, all I'm asking for, your Honor, is give
6 this dog a break. We don't believe it's at all vicious.
7 Let us have a full scale trial. The dog will remain where
8 it is. It won't do anybody any harm. It's not going home.
9 It's not going to be out on the street.

10 Let us, with the crucible of
11 cross-examination, get to the bottom of all of what
12 happened, rather than rely upon an administrative hearing
13 where these three people, in all fairness, didn't really
14 know what they were doing. They have no conception of what
15 was required of them or what they should do or whether they
16 should get a lawyer or get a continuance or anything.

17 If we are given the opportunity, which is
18 what we really think the court is for, to ferret the truth
19 out here. Nothing will happen. As we have told before,
20 there will be no added expense to the County because we
21 have undertaken to pay for whatever expense they have in
22 keeping the dog during that time frame.

23 I think this trial could be relatively
24 brief, but I think it would be a fair way to determine
25 whether this poor animal should die or not.

26 THE COURT: Is there anything else?

27 MS. WEGNER: Your Honor --

28 MR. SHARER: If you don't mind, your Honor.

1 MS. WEGNER: It was subsection (g) that applies,
2 specifically the act, the Administrative Proceeding Act
3 only applies to a state agency, not to a County agency, and
4 so it's specifically under (g).

5 And I had two other points, your Honor. One
6 of them was that the expert, Dr. Polsky, very specifically
7 in his research paper which was published and has been
8 reviewed, you know, by the experts in the field was
9 included as an exhibit which I believe was -- if you can
10 bear with me for a moment, your Honor.

11 It specifically goes to the direct
12 conclusion that these types of electric fences in a dog
13 that is not vicious can cause the dog to bite because it
14 associates the electric shock with whatever is right in
15 front of it. And while that's not true of every single
16 dog, here in this case it does seem salient because the dog
17 has not bitten any other time other than when it was
18 tempted across the fence.

19 And while the child -- you know, yes, there
20 are children that were bitten. There are circumstances and
21 options that we have circumstantial evidence under Evidence
22 Code 600 which shows that all around this time that these
23 children were taunting the dog, if they were taunting him
24 to cross the line and get shocked that he would have
25 associated -- per the experts, would have associated that
26 with the children.

27 If that stimulus is removed, your Honor, the
28 likelihood of this dog biting someone again is

1 substantially reduced. And, in addition --

2 THE COURT: Let me stop you here. Have you had a
3 chance to review the photographs of the child's hand?

4 MS. WEGNER: I have, your Honor.

5 THE COURT: This is not the situation where a dog
6 nips somebody's ankle and because the dog was nervous.
7 These are not photographs that would indicate a mild
8 attack. These are really quite serious. I think when you
9 are -- they are extremely serious.

10 So, again, we're not talking about a dog
11 that is just sort of lashing out for a second and might
12 just nip at somebody. Not only did he break skin, he
13 almost severed the child's finger. That's pretty serious.
14 And, in addition to that, you then have evidence -- and I
15 know you have contrary evidence from your own experts, but
16 you do have evidence from individuals for the County that
17 have been taking care of the dog after it was taken into
18 the County's custody that would indicate, this is for what
19 reasons, and I understand, certainly, that most animals are
20 probably not very comfortable in a shelter and that there
21 are added stressors in a shelter, but you do have, in
22 addition, a statement from one of the veterinarians, I
23 think it's Dr. Fishbein, that states that observing the
24 animal, the animal continues to gnaw on the kennel door
25 showing his teeth pressed up against the bars.

26 So I think that is clearly a sign of
27 aggression, and I certainly would understand why most
28 animals would not be all that comfortable in an animal

1 shelter. So that's sort of -- in my view, that contradicts
2 the evidence that this was a one-time or isolated incident.

3 MR. SHARER: But --

4 THE COURT: Excuse me. I really -- my preference
5 would be to have one counsel at a time, but if you want
6 to -- did you want to address that issue, or do you want me
7 to go back to the other attorney?

8 MR. SHARER: Again, the same Dr. Fishbein is the
9 same doctor who fed this dog by hand, recognizing that it
10 was stressed, it was in a cage, it wasn't at home. She fed
11 it -- out of her hand, and it was gentle and it didn't bite
12 her, and there wasn't any fence there.

13 So we had prepared, your Honor, a sort of
14 demonstrative piece of evidence from the evidence. We
15 actually put it on a board, but I'm not sure that
16 necessary.

17 THE COURT: I'm not sure I need that. I think I
18 have the papers in front of me. You are welcome to argue.
19 I don't think I need anything --

20 MR. SHARER: What it is is a series of possible
21 solutions short of killing the dog. They refer to
22 euthanization. Euthanization is killing of an animal
23 that's gravely ill with an irrecoverable illness and is in
24 serious pain. This dog is in neither of those. This isn't
25 euthanization. This is killing.

26 We have a bunch of suggestions, which
27 include, among other things, disarming the dog, which is --
28 not being a dog person myself, I have not heard of the term

1 previously, but it involves partial or complete teeth
2 removal.

3 So there is a whole bunch of variety of
4 things. And as the Court has seen, because I know the
5 Court has read everything, we have submitted declarations
6 from institutions that take care of dogs like this to
7 protect them and don't let them do any damage. And they
8 are all willing to take this dog.

9 All I'm suggesting, your Honor, is there are
10 ways and means to save this dog's life and that there are
11 explanations. We have put on --

12 THE COURT: I have to say, counsel, to the extent
13 you are advancing a condition to propose preliminary
14 injunction, it seems particularly cruel to me to have the
15 animal's teeth removed. That doesn't seem like a
16 particularly --

17 MR. SHARER: Apparently -- as I am told, your
18 Honor, and I'm no expert, but I'm told by the experts that
19 that procedure doesn't prevent the dog from eating, but it
20 prevents the dog from biting anybody. And there has to be
21 a constructive way to take care of this animal without --

22 THE COURT: That doesn't seem like a very good
23 quality of life for the animal. It really doesn't. I
24 appreciate your advancing a condition for the purpose of a
25 preliminary injunction.

26 MR. SHARER: Your Honor, let me just finish with
27 this. I'm not enthusiastic about the way you are leaning
28 so I want to say that if, in fact, the Court is inclined to

1 deny this preliminary injunction, then I will ask for the
2 Court to stay any killing of this dog pending appeal.

3 There is authority for that. I refer to the
4 case of Philips versus San Luis Obispo County Department of
5 Animal Regulation, an opinion by presiding Justice Arthur
6 Gilbert who had taken an appeal from a trial court that had
7 refused to stop what they call euthanization there. And
8 the animal was still alive by virtue of the stay and
9 Judge -- Justice Gilbert and his brethren reversed that and
10 set the dog free.

11 All I'm suggesting is if you are not
12 inclined to grant this preliminary injunction and set a
13 trial date, I would ask that the --

14 THE COURT: Well, I will certainly set a trial
15 date at the trial setting conference. I guess we have to
16 understand what is before me today. I issued a temporary
17 restraining order. Today is the hearing on order to show
18 cause as to whether or not the Court should essentially
19 extend the temporary restraining order until the time of
20 trial.

21 At the conclusion of this hearing, if I
22 don't grant the -- essentially, the motion for preliminary
23 injunction, the temporary restraining order is dissolved
24 forthwith. So I'm not quite sure what you are asking me to
25 do. You are essentially asking for a continuance of the
26 hearing on the OSC.

27 MR. SHARER: No, your Honor. I'm asking for, if
28 you are not going to grant the preliminary injunction and

1 you are not going to -- therefore, we're not going to have
2 a trial because they are going to kill the dog by then.
3 There would be no point in having a trial.

4 I'm asking for the Court, if it's not going
5 to grant the preliminary injunction and it's otherwise
6 going to permit the County to kill this dog, that I would
7 ask for a stay of that order allowing us to appeal. And
8 there is no point in appealing if you permit the dog to be
9 killed forthwith.

10 THE COURT: Okay. Is there something else?

11 MR. SHARER: I don't think so. You got
12 something?

13 MS. WEGNER: Two things.

14 MR. SHARER: With the Court's permission.

15 THE COURT: Sure.

16 MR. SHARER: Just two things, your Honor. The
17 first is that the hearing, the administrative hearing
18 finding, was not just that JoJo would be put -- would be
19 destroyed, but, in addition, that this family could not own
20 a dog for three years, given the -- the severe nature of
21 the finding and their lack of ability to cross-examine or
22 even the only two witnesses who actually were there, there
23 was no ability to cross-examine them because they weren't
24 present.

25 In addition, in the administrative hearing
26 record, when you read it, you will notice that the hearing
27 officer actually just takes as fact the statements made by
28 the County representation. And even though they were not

1 present and did not witness the event either, they recite
2 those statements as if they are fact and then apply a
3 different standard to the family here saying, oh, well, you
4 weren't present; your witnesses weren't there at that
5 moment; but neither were any of the people that were
6 testifying in the room that they did the administrative
7 hearing.

8 THE COURT: Well, there is a statement made by
9 the child -- who, I believe, it's not the mother, it's
10 another adult, I think, at the hospital. That statement,
11 if you sort of -- if you parse out the different levels of
12 hearsay, the child's statement under those circumstances to
13 another adult who then testifies. That's not hearsay, or
14 there's an exception. So you do have actually admissible
15 evidence from the victim that this has come to the
16 administrative hearing.

17 So, first of all, normally an administrative
18 proceeding where the Rules of Evidence are somewhat
19 relaxed, even if you were to apply the Evidence Code, you
20 do have a direct statement coming in under one of the
21 exceptions to hearsay of the child.

22 MR. SHARER: What exception is that, your Honor?

23 THE COURT: Excuse me, counsel.

24 MR. SHARER: I'm sorry. I'm not familiar with
25 that exception.

26 THE COURT: Well, I think there could be -- I
27 don't remember the exact number in the Evidence Code, but
28 something about undergoing trauma. It's a presence

1 exception. If you are being attacked and you are making
2 statements to a third party and that third party then
3 relates the statement, that's an exception to the hearsay
4 code. I don't remember the exact subsection of the
5 Evidence Code.

6 So I do take issue that there was no
7 evidence. I think there is evidence that came in from one
8 of the adults who was at the hospital with the child as
9 to --

10 MS. WEGNER: If I may.

11 THE COURT: -- what the child was relaying.

12 Certainly, children sometimes, like any
13 other witness, may not always recollect what occurred
14 accurately. I appreciate that.

15 MS. WEGNER: If I may, your Honor.

16 THE COURT: Sure.

17 MS. WEGNER: There was nothing in the child's
18 declaration or from anybody that specifically goes to
19 whether or not -- what was happening right before, were
20 they provoking this dog or not, that question has never
21 been answered. The County certainly did not do any
22 aggressive investigation to get an answer to that question.

23 In fact, the family have reported that they
24 had contact, but they never interviewed them, never asked
25 them. They have never been given an opportunity to ask
26 those children what were you doing.

27 And given the gravity of the situation and
28 killing the dog, their beloved family dog, and taking their

1 ownership of the -- the right to own a dog for three years
2 away from this family, even if you --

3 THE COURT: Well, their ability to contest -- and
4 I understand, certainly, I am very well aware of the
5 fact -- and, as you know, I issued a temporary restraining
6 order in the first place in this case, notwithstanding all
7 the practical purposes, and to be honest, the lack of
8 admissible evidence, issues concerning standing.

9 I really bent over backwards because I
10 understood that what would occur if I didn't issue a
11 temporary restraining order was the immediate destruction
12 of an animal. So I do want to make sure that you
13 understand that, that I took and take your claim very
14 seriously. No one wants to see an animal destroyed.

15 And, in fact, we're here today because I
16 really bent over backwards to grant a temporary restraining
17 order to allow me to review the evidence, the
18 administrative record. So, as it relates to any part of
19 the order, the administrative record that limits your
20 other -- the individual client's ability to have a dog, you
21 will have a hearing in the ordinary course that would
22 challenge that aspect of the order.

23 Obviously, if I deny your request for
24 preliminary injunction, unless there is some extension by a
25 court, that doesn't -- that doesn't help the dog at all,
26 for obvious reason. But as it relates to your clients,
27 presumably they will have an opportunity to challenge the
28 other aspects of the order that limits their ability to

1 have dogs in the future.

2 MS. WEGNER: Your Honor, if I may just --

3 THE COURT: Sure.

4 MS. WEGNER: -- provide you with a few of the
5 other options that, in addition to disarming, just so that
6 they are in the record, that there are an aggressive number
7 of options available other than destruction. And, indeed,
8 the County did have discretion to make that finding. And
9 notwithstanding it was all their employees that were acting
10 as role as judge, jury, and executioner here, there were
11 options, including a boot camp training, disarming with
12 partial or complete removal, pad locked gate, auto-close
13 doors or gate, off lease -- this is if the dog went home.
14 Medication management, basket muzzle, dog bite insurance.

15 We also have a significant number of
16 sanctuaries who have offered to take this dog who have
17 complete notice of the situation with this dog, and they
18 have said they would step up. And there is all those
19 different options available to the dog. And the owners
20 could visit their dog. Yesterday they were visiting JoJo
21 with their baby girl, who was crying holding onto on the
22 cage, didn't want to leave.

23 If there is -- you know, the Court has the
24 discretion, as did the County, to allow this dog to go a
25 sanctuary. There's sanctuaries full of, supposedly, you
26 know, dangerous dogs that have bitten. JoJo did bite. He
27 was provoked. If he's in an environment where there is no
28 provocation, a contained environment, your Honor, and this

1 family can still go and visit and spend time with their
2 dog, that's solution is on the table here today, and there
3 is no logical reason to destroy the dog under those
4 circumstances.

5 THE COURT: Okay. Let me hear -- I think I have
6 given you a long time, and I appreciate your arguments and
7 certainly you will get the last word because it is your
8 motion.

9 I would like to hear from the County, if you
10 would like to be heard, please.

11 DIANE REAGAN: Thank you, your Honor. I think
12 that we have submitted, really, all of our cogent arguments
13 in the pleading, in the opposition that we filed, but I
14 would like to point out that counsel was confused about a
15 few things.

16 First of all, we're not required, the County
17 is not required to Mirandize the respondent in a dangerous
18 dog case. It's a limited civil case or an administrative
19 hearing. We're not required to tell them that they have
20 the right to counsel. We certainly tell them if they ask
21 if they can have counsel. We certainly tell them they
22 certainly do have that right. But it's not our affirmative
23 duty to advise them to go out and get counsel.

24 In terms of the time and the continuous time
25 is set by statute, the time for hearing, so that is
26 established in the statute.

27 THE COURT: Can I ask you a question, because I
28 think counsel mentioned the issue of a stay.

1 DIANE REAGAN: Yes, your Honor.

2 THE COURT: If the Court were to deny the request
3 for preliminary injunction and if counsel on both sides
4 were to waive notice of the Court's ruling, could I make
5 that order effective as of tomorrow at 4:30 so to the
6 extent that petitioners want to seek an immediate writ
7 proceeding from the court of appeal, they would at least
8 have tomorrow to seek to -- basically, before the Court's
9 order became effective.

10 DIANE REAGAN: Yes, your Honor.

11 THE COURT: Okay. Would you have any objection?

12 DIANE REAGAN: I would have no objection to that,
13 your Honor.

14 THE COURT: Okay. Do you want to go on.

15 DIANE REAGAN: I really think that your Honor
16 covered, really, all of the key points. And but I do want
17 to point out that even though the respondents in almost all
18 of these -- hardly any of them are ever lawyers. They are
19 all provided a complete copy of the statute. They have the
20 County code. It's in the petition. They are provided with
21 all the information. So they have all of the information
22 regarding the right to bring information, and they were
23 given the right at the hearing to present all of the
24 information that they had.

25 The 11-page, single-spaced, typed report
26 that counsel is referring to is an independent
27 investigation which the hearing officer did accept into
28 evidence, and it's attached to the transcript. All of the

1 information, all of the documentary evidence which was
2 submitted by the respondent was taken into evidence and is
3 attached to the transcript.

4 With respect to that 11-page, single-spaced,
5 typed report, the hearing officer did review it during the
6 course, and she quoted from parts of it. During the course
7 of the transcript, there were about 20 pages that were
8 devoted exclusively, as I pointed out in my papers, to the
9 hearing officer's review of the information which was
10 provided by the respondent.

11 So they had plenty of opportunity to ask
12 questions. The hearing officer repeatedly asked them is
13 there anything else you would like to add; is there
14 anything else that you have. And they were given ample
15 opportunity to present all of the evidence that they had
16 and were encouraged to do so by the hearing officer.

17 So there is no question regarding due
18 process. All of the due process requirements were in
19 conformance with administrative hearing procedures.

20 With respect to the evidentiary objections,
21 your Honor, just a couple of quick points. One is that
22 proper foundation for expert opinion was given on the
23 subjects they opined on. And, secondly, all the statements
24 made were relevant to the case at bar. There were
25 exceptions, as your Honor has pointed out, to the hearsay
26 rule. Many statements were offered to impeach statements
27 made, declarations made, by the petition -- this
28 petitioner's --

1 THE COURT: Although, I don't think -- I mean, to
2 be perfectly honest, I will rule -- so there is a complete
3 record, I will rule -- you have made a lot of evidentiary
4 objections. I will make a ruling at the end of the
5 hearing.

6 There is also an opposition to the request
7 for judicial notice. I don't think I need a declaration
8 from an expert to tell me whether or not a hearing was fair
9 or not. I think that really -- I don't need expert
10 testimony on that. I can determine that from a review of
11 the record and my understanding of the case law.

12 DIANE REAGAN: Your Honor, also, with respect to
13 their asking your Honor to strike portions of the
14 administrative record, which is rather unusual. But I do
15 want to point out that all relevant evidence is admissible
16 under 10.37.110. And the strict rules of evidence do not
17 apply to this administrative hearing, as pointed out in the
18 statute, and that is that that statute is under -- has been
19 submitted to you under my request for judicial notice,
20 Exhibit B.

21 With respect to the request for judicial
22 notice, your Honor, the petitioner objected that the Court
23 cannot take judicial notice of Mr. Polsky's declaration as,
24 basically, it's hearsay. That's really not an appropriate
25 objection in this situation. It's not hearsay because it's
26 not offered for the truth of the matter stated. It is
27 offered to impeach Dr. Polsky with respect to his other
28 statement, and it is a court record which the Court can

1 take judicial notice of.

2 THE COURT: Maybe I can shortcut this now. I
3 will take judicial notice of the documents you have
4 requested, but I'm not taking judicial notice of the
5 underlying facts in those documents.

6 DIANE REAGAN: Yes, your Honor.

7 THE COURT: Just to be clear, that's one of the
8 objections that were raised. I will take judicial notice
9 that Dr. Polsky filed a declaration in this court
10 proceeding. Other than that, I am not taking judicial
11 notice of the underlying facts.

12 DIANE REAGAN: Thank you, your Honor.

13 THE COURT: Sure.

14 DIANE REAGAN: The other thing I do really want
15 to emphasize, your Honor, the petitioner had an opportunity
16 and did file an Amended Petition, and she still did not add
17 the owners to the -- to the Amended Petition. She typed
18 them in and their motion and referred to them as
19 petitioners, but, in fact, in the Amended Petition, she did
20 not add them to the petition.

21 As I pointed out in my papers, your Honor,
22 she's required -- counsel is required to come to court to
23 ask leave of court to file a Second Amended Petition, which
24 was not done. But even assuming that she could do that in
25 the future and add them as petitioners, there is -- I agree
26 with your Honor, that it is highly unlikely that they will
27 prevail in this matter.

28 THE COURT: Well, they are the only ones -- the

1 individuals that remained in the administrative proceeding
2 are the only ones that have standing to challenge the order
3 by the administrative hearing officer as it relates to
4 them. It's not the institutional petitioner.

5 DIANE REAGAN: That's correct.

6 THE COURT: They have a beneficial interest and
7 only they can determine that the order as it relates to
8 them, for example, that the order that would have in fact
9 prevented them from being dog owners or animal owners for a
10 period of time, only they would have that standing.

11 DIANE REAGAN: I agree with that, your Honor, but
12 counsel did not add them to the petition.

13 THE COURT: I understand your position. I
14 certainly appreciate that.

15 DIANE REAGAN: Okay. Is there anything else your
16 Honor has questions about?

17 THE COURT: I don't. I asked a question because
18 I think this is something counsel for petitioners raised
19 about a sort of temporary stay or the effective date of the
20 Court's order. I think you indicated if I were to deny the
21 request for preliminary injunction, you would not be
22 opposed to the Court order being effective as of tomorrow
23 at 4:30 to allow petitioners to seek immediate appellate
24 review.

25 DIANE REAGAN: I would not, your Honor.

26 THE COURT: Okay. Did you want to respond?

27 MR. SHARER: Yes, your Honor. I'm troubled by
28 the amount of time you are giving the petitioners. You

1 recall that at the TRO hearing you initially gave us one
2 day to file a voluminous preliminary injunction motion with
3 affidavits and declarations.

4 THE COURT: Excuse me, counsel. First of all,
5 it's not my burden of proof. It's your burden of proof.
6 Actually, I think I accommodated you to allow you to submit
7 additional documents.

8 (Telephone interruption)

9 THE COURT: Did you want to get that.

10 MR. SHARER: If it is, your Honor, it's my --
11 after telling everybody else to turn theirs off, I must not
12 have turned mine. My apologies, your Honor.

13 THE COURT: Not a problem.

14 I do take issue with that statement. I
15 actually think I have accommodated you by allowing you to
16 supplement your papers. I think I had initial problems or
17 issues that probably would have resulted in immediate
18 denial of the temporary restraining order, but because the
19 result would result in the death of an animal, I actually
20 bent over backwards to allow you to supplement the initial
21 moving papers.

22 So I disagree with your statements that I
23 required you to submit your moving papers on short notice.
24 I think, in fact, I bent over backwards to allow you to
25 supplement the initial moving papers in support of a
26 request for temporary restraining order so I disagree with
27 that position.

28 MR. SHARER: But a request for temporary

1 restraining order is a skeletal presentation --

2 THE COURT: I'm not going to argue with you. I
3 think if you would like to make a record on that issue, you
4 are welcome to do so.

5 MR. SHARER: And when you say one day to get a
6 writ, you mean to file a writ or get a response from the
7 court?

8 THE COURT: I am prepared -- I am prepared, if I
9 deny your request for a preliminary injunction, to have the
10 Court's order be -- to be effective as of 4:30 tomorrow so
11 you would have to seek review from the court of appeal on
12 an emergency basis to extend that period of time.

13 MR. SHARER: And, actually, get that relief from
14 the court of appeal before --

15 THE COURT: The Court's order would not be
16 effective till 4:30 tomorrow. So that would mean you would
17 have to go --

18 MR. SHARER: Can't you give us a little more time
19 than that, your Honor, assuming you are going to rule
20 against us?

21 THE COURT: Did you want to say something else
22 other than on that particular issue?

23 MR. SHARER: No.

24 THE COURT: Okay. Let me first -- because you
25 did file evidentiary objections and you did file objections
26 to the respondent's request for judicial notice. As
27 relates to the request for judicial notice, your objections
28 are overruled. But I'm only taking judicial notice of the

1 fact -- as it relates to Dr. Polsky, only that that
2 declaration is actually filed. I'm not taking judicial
3 notice of the underlying facts in his declaration.

4 As it relates to your evidentiary
5 objections, so there is a clear record, you have given
6 me -- and I appreciate it. You have given me a document
7 that's numbered with 52 evidentiary objections. My rulings
8 are as follows:

9 Objections 1 through 13 are sustained.

10 14 through 17 are overruled.

11 18 is sustained.

12 19 is overruled.

13 20 through 23 are sustained.

14 24 and 25 are overruled.

15 26 through 28 are sustained.

16 29 through 52 are overruled.

17 I appreciate the advocacy that's gone with
18 this case. I certainly appreciate the implications of the
19 Court's decision; however, I find that the petitioners have
20 not met their burden to require the Court to issue a stay
21 or to issue a preliminary injunction; therefore, I deny
22 your request for a preliminary injunction.

23 The temporary restraining order shall be
24 dissolved effective tomorrow, September 6th, at 4:30.

25 And did you want notice to be given? Do you
26 want something in writing so you --

27 MR. SHARER: Yes.

28 THE COURT: Well, is there any way we can get a

1 minute order -- I don't think I need to sign a minute
2 order. If you want a minute order --

3 AUDIENCE MEMBER: Your Honor, could we have more
4 time, please? It's our dog.

5 THE COURT: Excuse me one second, please.

6 Is it possible --

7 THE CLERK: Sure.

8 THE COURT: -- to get the minute order that
9 indicates the Court heard the matter and that the temporary
10 restraining order is denied effective tomorrow at 4:30 to
11 allow the petitioners to seek immediate appellate review,
12 that their request for preliminary injunction is denied?

13 You will get a copy from the clerk. So you
14 will be deemed served with the Court order when the clerk
15 gives you a copy. That way you have a minute order if you
16 want to seek appellate review. Thank you very much.

17 DIANE REAGAN: Your Honor, I do have a
18 declaration regarding the -- there was money put aside in
19 case there was a denial --

20 THE COURT: I'm not exonerating the amounts that
21 have been -- unless there is a stipulation, I'm not
22 exonerating the amounts deposited with the court because to
23 the effect they were in lieu of a bond, normally, the
24 exoneration of a bond, even for a temporary restraining
25 order, is a result at the conclusion of the case. So I'm
26 not prepared to exonerate it or to make an order returning
27 the amount.

28 DIANE REAGAN: Until --

1 THE COURT: Unless there's a stipulation or until
2 the case is resolved. That is the purpose of a bond. So
3 I'm not making any orders as to the amount that was posted
4 today. If you want to submit a stipulation, if you come to
5 some other agreement, I'm happy to sign it.

6 I'm not releasing any funds. I'm not
7 exonerating -- I don't think they posted a bond. They
8 deposited funds into the court, because that was for
9 purposes of protecting the respondent in the event the
10 Court were to -- or there was a determination made that a
11 temporary restraining order should never have been issued
12 in the first place. Normally, that's not resolved until
13 the end of the case so I'm not doing anything on that.

14 DIANE REAGAN: Okay. Thank you, your Honor.

15 THE COURT: Thank you very much.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 82

HON. LUIS A. LAVIN, JUDGE

SANTA PAULA ANIMAL RESCUE CENTER,)

PETITIONERS,)

vs.) NO. BS144497

) REPORTER'S

COUNTY OF LOS ANGELES DEPARTMENT) CERTIFICATE

OF ANIMAL CARE AND CONTROL,)

RESPONDENT.)

I, Buford J. James, CSR 9296, Official
Reporter of the Superior Court of the State of California,
for the County of Los Angeles, do hereby certify that the
foregoing pages 1 through 41, inclusive, comprise a full,
true, and correct transcript of the testimony and
proceedings held in the above-entitled matter on THURSDAY,
SEPTEMBER 5, 2013.

Dated this 6th day of SEPTEMBER, 2013.



Buford J. James, Certified Shorthand Reporter